

Hon. Karen L. Strombom

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARVIN HUNTER,

Plaintiff,

NO. C13-CV-5427 RJB/KLS

v.

STIPULATION AND ORDER TO FILE AN
EXHIBIT UNDER SEAL

JEROME WILEN, TIM THRASHER and
CORYDON WHALEY,

Defendants.

STIPULATION

The parties, through counsel of record, agree as follows:

1. The parties have previously agreed to a Protective Order, Dkt. #21, with respect to filing UNDER SEAL documents that Defendant State of Washington believes to be confidential under (a) the law enforcement and (b) Department of Corrections - Security Threat Group exemptions of the Public Records Act, RCW 42.56.240 (1) and (10), and analogous exemptions under the Federal Freedom of Information Act (FOIA) and federal cases protecting information related to prison security.

2. Plaintiff, through counsel, will be bringing a Motion to Compel Discovery, in which he will be relying, in part, on Discovery Document #21200103, which Defendant believes should be protected as law enforcement/intelligence and/or as security threat group information.

STIPULATION AND ORDER TO FILE
AN EXHIBIT UNDER SEAL - 1
HUNTER V. JEROME WILEN, et al.
CAUSE NO. 3:13-cv-5427-RJB-KMS

Fred Diamondstone
ATTORNEY AT LAW
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1 3. The particular document, DOC Document #21200103, contains law
2 enforcement intelligence information concerning security threat group information and the
3 defendant has provided this document, notwithstanding its claim that it is protected by RCW
4 42.56.240 (1) and (10), the Law Enforcement and Security Threat Group exemptions to
5 Washington's Public Disclosure statute, and analogous exemptions under the Federal
6 Freedom of Information Act (FOIA) and federal cases protecting information related to
7 prison security.

8 4. The parties have conferred as required by LCR 5 (g) (3) (A). The parties agree
9 that filing this one page under seal is the minimal amount of material needs to be filed under
10 seal in relation to Plaintiff's motion. The conference occurred on November 19, 2013,
11 following a prior face-to-face conference on November 1, 2013 and a course of numerous
12 telephone and email communications between November 6 and November 19, 2013.
13 The applicable legal standard is the claim of Defendant Department of Corrections that this
14 material is Law Enforcement Intelligence Information and Security Threat Group
15 information subject to RCW 42.56.240 (1) and (10). (Stipulation filed on November 19,
16 2013, Dkt. # 21) Further, "[a]n important purpose of a pre-trial protective order is to
17 preserve the confidentiality of materials which are revealed in discovery but are not made
18 public by trial." *Rhinehart v. The Seattle Times Co.*, 98 Wn.2d 226, 233, 654 P.2d 673 (1982)
19 (citing *National Polymer Prods., Inc. v. Borg-Warner Corp.*, 641 F.2d 418, 424 (6th Cir.
20 1981), *aff'd. sub nom. Seattle Times Co. vs. Rhinehart*, 467 U.S. 20, 104 S.Ct. 2199 (1984);
21 *see also Gannett Co., v. DePasquale*, 443 U.S. 368, 396-97, 99 S.Ct. 2898, 61 L.Ed.2d 608
22 (C.J. Burger concurring) (" A pretrial deposition does not become part of a trial until and
23 unless the contents of the deposition are offered in evidence In the entire pretrial period,

24 / / /

25 / / /

there is no certainty that a trial will take place.”).

DATED:

DATED

Daniel J. Judge, WSBA No. 17392
Senior Counsel
Office of the Attorney General
WSBA No. 17392
Attorney for Defendant State

Fred Diamondstone, WSBA No. 7138
Attorney for Plaintiff Hunter

ORDER

The Court has reviewed the Stipulation of the parties. Now, therefore:

IT IS HEREBY ORDERED that the stipulation is APPROVED.

IT IS FURTHER ORDERED Document #21200103 shall be filed UNDER SEAL when it is filed in support of Plaintiff's Motion to Compel Discovery and to Overrule Objections, pending the Court's final disposition of the Motion to Compel Discovery, at which time the Court will determine whether Exhibit 8 needs to remain under seal.

DATED this 26 day of November, 2013.



Karen L. Strombom
United States Magistrate Judge

Presented by:

Fred Diamondstone, WSBA No. 7138
Attorney for Plaintiff Hunter
Copy received, Approved as to Form,
Notice of Presentation Waived

Daniel J. Judge, WSBA No. 17392
Senior Counsel
Office of the Attorney General
Attorney for Defendant State

STIPULATION AND ORDER TO FILE
AN EXHIBIT UNDER SEAL - 3
HUNTER V. JEROME WILEN, et al.
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